G. R. S. 58]

Previous references.

Inwd 4 68-10-Sls 268

1912.

(Inward)

File No. 198 – 12

Serial Nos. 1 to 5

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 5

Part B for December 1912.

SUBJECT.

Appeal against the Decree and Judgment of the Additional Munsiff of Bangalore regarding Survey No 90 of Mallur village gifted to the Sri Appramey a Swamy temple at Mallur.

Sl 1 From the Government Advocate in Mysore No 87 Dated 23-9-1912. States that the appeal filed by Alamelamma in the Chief Court of Mysore was dismissed with Costs and forwards Copies of Judgment and Decree

" 2 From Do - — — — — No 102 Dated 12-10-1912 Submits for Sanction a Bill for Rs 12/- being Advocates fees for Conducting the Said Appeal before the Chief Court.

" 3 To the Government Advocate, Comptroller and Dy Coms Bangalore No 743-5 Dated 6th December 1912. Records Sls 1 and 2 and Sanctions and forwards to the Comptroller for audit the bill for Rs 12/- with the observation that the necessary steps should be taken for recovery from the appellant (Plaintiff) of the Costs awarded to Govt in the Case.

GPB—5,000—22 10 10

G.R.S. 11] 1912.

GENERAL AND REVENUE SECRETARIAT.

(Miscellaneous)

NOTES.

File No. 198-12

FILE HEADING.

Appeal against the decree of the Additional Munsiff of Bangalore regarding S. No. 90 of Mallur given over to the Temple of Sri Apprameya Swamy.

From

The Govt Advocate in Mysore.

No. 87 Dated 23-9-1912 Received

Diary No. 558	Enclos. — Spare Copies. —	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the appeal filed by Alamelamma in the Chief Court of Mysore was dismissed with costs and forwards copies of judgment and decree

NOTES AND ORDERS.

Miscellaneous File no. 68 of 1910 is herewith submitted. The office-note in the file gives an account of the facts of the case—

In the Additional Munsiff's Court of Bangalore, a suit was filed by one Alamelamma

NOTES—First Sheet.

GPB—30,000—12-8 11

Serial No.

for the recovery of a garden gifted by one Rangamma to the Sri Apprameya Swamy Temple at Mallur. The Suit ended in favor of the Temple and a bill for Rs 40-5-8 on account of Costs inclusive of Pleader's fees in the case, was sanctioned (vide Sl 8)- Alamelamma thereupon appealed to the Chief Court and the Govt Advocate was requested to appear on behalf of the Respts and conduct the appeal. The present Govt Advocate states that the appeal was dismissed with costs, and forwards Copies of Judgment and Decree-

G.T

Submits for orders. The communication
By 1132 27-9-12 may be recorded after perusal-
RL 27.9.12

2. From, The Govt Advocate in Mysore.
Letter no. 1132 Dy 12-10-1912.
Submits for sanction a bill for Rs 12 being the Advocate's fees for Conducting the said appeal before the Chief Court.
Submitted with draft order Govt
AVL 132 13-11-12 RL

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G & R. S. 12]

General and Revenue Secretariat. Mur File No. of 191

Serial No.	
	May be approved. A para has been added requesting the Govt. Advocate to take the necessary steps for recovering the costs awarded to Govt.
1086	McConaghey 22 11 12
	Draft appd. by Sl Counsellor 27 11 12 MS
	WS 27/11
	Issue — 27 11 12
3	Do The Govt Advocate .. Counsel to Govt No 743-57 dt 6/12/1912 Dy Comr Bangalore 27/11 Recording the letter of the Govt Advocate Sanctioning the bill for Rs 12½ & requesting the Govt Advocate to take necessary steps for recovering from the appellant the costs awarded to Govt
4.	From, The Govt Advocate Bangalore Letter No 157 dt 6-12-12. Suggests that the amount may be realised from the Dy Commr, Bangalore Govt may see

NOTE—Contn. sheet.

G.R. S. 12]

General and Revenue Secretariat. | File No. 198 of 1912

Serial No.

requested to instruct the Public Prosecutor, Bangalore Divn, to institute execution in the case.

Submitted with a Dft

JVC(15)
10.11.12

Issue

11/12/12

Do

5 The Dy comm Bangalore Dt

no 756 D 16.12.1912

Requesting him to instruct the public Prosecutor Bangalore Divn to institute execution proceedings in the case for recovering the costs from the appellant (Affd)

1/5

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Office of the Government Advocate in Mysore,

Bangalore dated, 23rd September 1912.

19/2-1913
Section
Serial No. 1

From,

C. S. Doraswamy Iyer Esq., B.A.,B.L.,
Government Advocate in Mysore, Bangalore.

To,

The Secretary to the Government of H.H. the Maharaja
of Mysore, General and Revenue Departments.

Sir,

With reference to your letter No.1334/Muz.F.68-10-7 dated 19th November 1910, requesting my predecessor in office, to appear and conduct R.A.No.249 of 1909-10 on the file of the Chief Court, on behlaf of the 1st respondent and to report the final disposal of the appeal, I have the honour to state that the said appeal coming on for hearing on the 4th September 1912, the honourable Judges have dismissed the appeal with costs.

2. As I was retained prior to my appointment as Government Advocate, by the appellant to act on her behalf and in consequence I could not now appear in the case I handed over the brief to Mr.C. Seshachar Advocate, and requested Mr. S. Ranganna Public Prosecutor Bangalore Division to conduct the appeal for me on behalf of Government.

3. Copies of judgment and decree together with the enclosures to the letter under reply are herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

Government Advocate.

Enclosure to Govt Advocates letter No 87 - Dt 23 9 1912
Mun - 198-12-f

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Monday, the 9th day of September 1912.

Present.

Mr. Justice K. S. Chandrasekhara Aiyar,

and,

Mr. Justice E.H. W A L L A C E.

Regular Appeal No.249 of 1909-10.

Alumelamma..... (Plaintiff). .....Appellant.

VS.

1. Secretary to the Government, Muzrai Department.
2. Srinivasa Raghavachar.

... (Defendants) .... Respondents.

263

Appeal against the decree of the Additional Munsiff of --- Bangalore in O. S. No. 603 of 1906-07.

This appeal coming on for hearing on ~~Friday~~ Wednesday the 4th day of September 1912, the Court delivered the following

J U D G M E N T.

The original suit was by appellant - plaintiff for possession of a garden. The garden originally belonged to her

father

father. Appellant is the son by his first wife. One Rangamma was his third wife. She died in 1959. Appellant claims the property as the reversioner to the estate of one [illegible]. His claim was resisted by the [illegible] (the respondent - 1st respondent) on the ground that [illegible] had bequeathed the property by will (exhibit 1) to Appellant's [illegible] people. First defendant (now dec.) was impleaded as he is said to have effected the registration of the will. Second respondent is his legal representative.

2. Two points arise for decision (1) is the will genuine (2) if genuine, had Rangamma the power to dispose of the property by will. As to the first point, we see no reason to differ from the lower court on this point and find that the will is genuine. Four attestors to it have been examined as defendants' witnesses 1 to 4. The few discrepancies brought to our notice seem to be unimportant in view of the length of time which has elapsed since the execution of the will. Appellant has been able to suggest no reason why all these persons should combine to concoct a will which benefits none of them. Exhibit IV shows clearly that Rangamma did not die before the date of Exhibit I, as contended by appellant.

3. As to the next point, an important document is Exhibit II. It is a rajinama petition put in by pleader to O.S. No. 1010/07 on the file of the Munsif Serangapatam - that suit, in which Rangamma sued the present appellant and another for a certain garden (not that involved in the present suit). A decree (admitted by this court as in Exhibit) was passed on the rajinama wherein it was decreed that first defendant in that suit should enjoy for his lifetime the garden in dispute in that suit, that certain lands specified should belong to second defendant in that suit (present appellant) and that the rest of the properties belong to the plaintiff in that suit i.e. Rangamma. The present appellant was then the reversioner to Rangamma.

4. It is not disputed that the present suit is, one was one of the first of the properties decreed to Ramamma. But appellant contends (1) that she was a minor at the (2) that it did not convey to Rangamma more than a widow's estate in the properties.

5. As to (1) appellant contends that she was a minor at the time of the suit, that her guardian ad litem did not ~~send~~ sign the rajinama, that the decree improperly dealt with properties

other

other than that in the will, which therefore does not bind her. We hold that she cannot be bound on that ground in this suit. The learned judge should have [illegible] as already [illegible] as well, we think, that in this case [illegible] Ramsamy [illegible] appellant herself [illegible] possession of the property [illegible] decree of 11-11-[illegible] until 1969 and was therefore in such possession for over 10 years before [illegible]. Also she has worked from 1959 till 1967 [illegible], and was given no explanation for this long delay. The kind of possession given to Ramsamy by the decree is the same kind given to appellant and in her own case appellant's [illegible] possession and for 8 years she was not clear that Ramsamy's possession was any thing [illegible].

3. We agree with the lower court's finding that by the decree [illegible] Ramsamy [illegible] ownership of the suit [illegible] properties and that she had power to dispose of it by will to first respondent. Appellant's case fails against first respondent-

ent

respondent. [illegible] was any case of action in the matter [illegible] before us We decline to [illegible]

sd K.S. Chandrasekhara Aiyar

J. J. P. C. J.

sd. E.H. Wallace.

J. C. J.

Copy

Government Advocate

Enclosure to Govt Advocate's letter No 287 Dt 23 9 1912
mra 198-12-1

7

Decree of Appellate Court.
(O 41. R. 35, C. P. Code).
Form No. 71, Civil

IN THE CHIEF COURT OF MYSORE AT BANGALORE

Present.

Mr. Justice K. S Chandrasekhara Iyer

and

Mr. Justice E. H. Wallace.

Regular Appeal No. 249 of 1909-10.

Alamelamma.
Appellant

Vs.

1. Secretary to the Government Mysore Department.
2 Sreenivasaraghavachar
Respondent

Appeal from the decree of the Court of the Additional Munsiff of Bangalore dated the 14th day of February 1910.

MEMORANDUM OF APPEAL

Alamelamma.
Plaintiff

Secretary to Govt: Mysore Dept. and another.
Defendants: 2 & 3.

Appellant above named appeals to the Chief Court of Mysore against the decree of the Court of the Additional Munsiff of Bangalore in suit No. 603 of 1906-07 dated the 14th day of February 1910 for the following among other reasons, namely:—

That the Lower Court erred in holding that the appellant was a party to the Razinama and that it was binding on her.

On the passing of Judgment in this appeal in the presence of Mr: C. Sesha chari Advocate for the Appellant, and Mr: S. Rangama Govt: Advocate for 1st Respondent & Mr: K. Ramaswamy Iyengar Advocate for the 2nd Respondent.

It is ordered and decreed that This appeal be and the same is hereby dismissed.

And it is further ordered and decreed that the appellant (plaintiff) aforesaid do pay to the respondents (Defendants 2 & 3) aforesaid the sum of Rupees 14-13-3. being the amount of costs incurred by the respondents. aforesaid in this Court with interest thereon at 6 per cent per annum from this date until the date of realization:

And it is further ordered and decreed that the aforesaid do pay to the aforesaid the sum of Rupees being the amount of costs incurred in the lower Court with interest thereon at 6 per cent per annum from the date of the decree of the said lower Court to the date of realization.

Given under our hand and the seal of this Court this 9th. day of September 1912.

(Sd). K. S. Chandrasekhara Iyer
Judge.

(Sd). E. H. Wallace.
Judge.

(9

MEMORANDUM OF COSTS INCURRED IN THIS APPEAL.

	By the Appellant (Plaintiff)			By the Respondent (Defts 2 & 3).		
	Rs.	As.	P	Rs.	As.	P.
Court Fee on Memo of Appeal	28	-	-	-	-	-
,, Application	-	1	-	-	1	-
,, Power of Attorney	2	-	-	2	-	-
,, Processes	1	-	-			
,, Copies of Decree and Judgment .	1	8	-			
Advocate's Fee	12	-	-	12	-	-
Costs of Adjournment	-	-	-	-	-	-
Fees for copying or translation ...	3	10	8	-	-	-
Costs on Remand						
Costs of paper	-	-	6	-	-	3
Printing charges	11	1	-	-	12	-
Total	59	5	2	14	13	3

Cd. V. A. Rajarathna Mudr.

Registrar.

Copy:

Government Advocate.

Advocate for Appellant.

Advocate for Respondent.

GPB—4,000—1-9-11

ಅಪ್ಪೀಲ್ ಕೇಳಲಿಕ್ಕೆ ಹಿಯರಿಂಗ್‌ಬಗ್ಯೆ ಗೊತ್ತುಮಾಡಿದ ತಾರೀಖಿನ್ನು ಅಪ್ಪೀಲ್ ಪ್ರತಿವಾದಿಗೆ ನೋಟೀಸ್ ಕೊಡಿಸೋಣ
ಸಿ" ಪ್ರೊ" ಕೋಡ್, 55ನೇ ಸೆಕ್ಷನ್.

Enclosure to Govt Advocate's Letter No. 87 dated 28-12-12

ನಮೂನೆ ನಂಬರು 67, ಸಿವಿಲ್.

ಕೋರ್ಟ್‌ನಲ್ಲಿ.

ಸರ್ ಆರ್‌ಎ/10 ನೇ ಇಸವಿ ನವೆಂಬರ್ ತಿಂಗಳು 24 ನೇ ತಾರೀಖು

ಅಪ್ಪೀಲ್ ವಾದಿ

ಕೋರ್ಟಿನ ಸರ್ ಆರ್‌ಎ/10 ನೇ ಇಸವಿ ತಿಂಗಳು ನವೆಂಬರ್ 14 ನೇ ತಾರೀಖಿನಲ್ಲಿ ಆದ ಮೂಲ ಅಪ್ಪೀಲ್

ಅಪ್ಪೀಲ್ ಪ್ರತಿವಾದಿಯಾದ

ಈ ವ್ಯಾಜ್ಯದ OS. 603/06 ನೇ ನಂಬರಿನ ಡಿಕ್ರಿಯಮೇಲೆ

ಈ ಕೋರ್ಟ್‌ನಲ್ಲಿ ಅಪ್ಪೀಲ್ ತರಲ್ಪಟ್ಟು ವ ರಿಜಿಸ್ಟರ್ ಮಾಡಲ್ಪಟ್ಟಿದೆ. ಈ ಅಪ್ಪೀಲನ್ನು ಕೇಳುವದಕ್ಕೋಸ್ಕರ ಹಿಯರಿಂಗ್‌ಬಗ್ಯೆ ಈ ಕೋರ್ಟ್‌ನಿಂದ ಸರ್ ಆರ್‌ಎ/10 ನೇ ಇಸವಿ ಡಿಸೆಂಬರ್ ತಿಂಗಳು 12 ನೇ ತಾರೀಖು ಗುರುವಾರ ಗೊತ್ತು ಮಾಡಲ್ಪಟ್ಟು ಇದೆಯೆಂದು ತಿಳಿಯತಕ್ಕದ್ದು. ಮೇಲ್ಕಂಡವರಿಗೆ ನೀವಾಗಲೀ ನಿಮ್ಮೆ ಪ್ಲೀಡರಾಗಲೀ ಈ ಅಪ್ಪೀಲ್‌ನಲ್ಲಿ ನಿಮಗಾಗಿ ವರ್ತಿಸಲಿಕ್ಕೆ ಕಾನೂನಿನಪ್ರಕಾರ ಅಧಿಕಾರಹೊಂದಿದ ಯಾರಾಗಲೀ ನಿಮ್ಮೆ ವಕ್ಷವಾಗಿ ಹಾಜರಾಗದೇಹೋದರೆ ನಿಮ್ಮ ಗೈರ್‌ಹಾಜರಿನಲ್ಲಿ ವಿಚಾರಣೆಮಾಡಿ ಏಕಪಕ್ಷವಾಗಿ ಫೈಸಲಾದೀತು.

ಸರ್ ಆರ್‌ಎ/10 ನೇ ಇಸವಿ ನವೆಂಬರ್ ತಿಂಗಳು 29 ನೇ ತಾರೀಖಿನಲ್ಲಿ ಕೋರ್ಟ್‌ನವರಿಂದ ಕೊಡಲ್ಪಟ್ಟ ಖತ್ತೊಡನೆ ಕೊಡೋಣಾಗಿದೆ.

ಮೇಲ್ಕಂಡ ನೋಟೀಸ್ ಪುಟ್ಟುಮೇಲೆ ಜಾರಿಯಾದ ೧೫ ದಿವಸಗಳೊಳಗಾಗಿ ನಿಮ್ಮೆತರಫ್ ತರ್ಜಮೆಯ ನಕಲುಪತ್ರ ತಕ್ಕಜಗಳು ಸಲ್ಲಿಸಿ ಹಾಜರ್‌ಮಾಡಬೇಕು.

Deputy Registrar

GPB—3,000—14-6-08

11)

Br VII.

What is this about?

Please take necessary action
in time. —

CDJ
8/8/40

Enclosure to Govt Advocate Letter No. 87 — Dt 23-9-1912 —

Original Case No. 603 of 1906 - 1907

In the Court of the Additional Munsiff of Bangalore

C.R. 678. Dated Monday the 14th day of February 1910

Present

B. Ranga Iyngar Esqure B.A B.L.

Additional Munsiff

Plaintiff

Alamelamma

Defendants

1. Singala Char (since dead)

2. Secretary to the Government of Mysore Mungrar Department.

3. Srinivasaraghava Char (Supplimental grand-son of deceased 1st defendant)

Judgment.

1. The Suit is for the recovery of possession of a garden.

2. The plaint is as follows:-

One Rangamma, the 3rd wife of plaintiff's father Srinivasa Iyengar, is the daughter

13

of the 1st defendant. The plaintiff is the daughter of Srinivasiengar's first wife. The plaintiff's mother died while plaintiff was a child. The plaintiff was thereafter under the protection of her grandmother Tirumengadamma. The plaintiff's father Srinivasiengar died while plaintiff was a minor. The plaintiff and 1st defendant are the only surviving heirs of deceased Srinivasiengar. After the latter's death, plaintiff's guardian Thirumengadamma and her daughter-in-law Rangamma lived together for some time. After some disputes arose it was arranged that Tirumengadamma should be in possession of the properties of deceased Srinivasiengar in Maudya Taluk and that She should protect the plaintiff who was then minor and that Rangamma should enjoy the properties at Doddaloor during her life time. After Rangamma's death, the is entitled to the said properties.

Rangamma had neither the right nor the necessity to alienate the properties which were in her possession. She was only entitled to enjoy the produce during her life time. Rangamma died of plague in 1879 at Doddaloor When plaintiff went to take possession of the Suit land the 1st defendant obstructed and said that the land had been given away by a will to Aprameya Swami Temple at Dod-daloor and that the possession had been given over to the Muzrai Department. When plaintiff petitioned to the Taluk office, She was referred to a Civil Court. On subsequent enquiry the plaintiff learnt that deceased Rangamma is said to have executed a will, with intent to defraud the plaintiff, Conveying the Suit property to Aprameya Swami Temple. The plaintiff learns that the 1st defendant himself presented the alleged will for Registration after Rangamma's death. Rangamma had no right to will away the ancestral properties of the plaintiff The plaintiff believes that the will is a

forgery. Even if it be held to be genuine, it is not valid according to Hindu Law and Cannot be binding on the plaintiff. Though plaintiff issued notices to the above effect to the Taluk office and to the Mesyroi secretary, they have failed to give up possession of the Suit land to the plaintiff. As the Mesyroi Department gets a gutta of Rupees 30/- per year from the Suit land, the plaintiff claims Rupees 90/- as the mesne profits for the past 3 years. As 1st defendant has got up the will in order to Secure a land in Mandya Taluk for himself, he is a necessary party to this Suit. The Cause of action accrued in May or June 1899 when plaintiff became aware of the will. The plaintiff prays for a declaration that the will in question is not genuine and valid and for possession of the Suit land and Rupees 90 towards mesne profits.

3. The 1st defendants' written Statement ows:- The relationship alleged in

the plaint is true. Disputes arose between Rangamma and her mother-in-law Thiru-Vengadamma during the former's life-time. Rangamma filed a Suit in O.S. 1030 of 1887 on the file of the Munsiff of Sreerangapatam, against Tiruvengadamma, Alamelamma the present plaintiff, who was then a minor, and plaintiff's father-in-law — Srinivasiengar. According to the Ranjinama filed in that Suit it was agreed that Tiruvengadamma Should enjoy one item of property during her life time for her maintenance and after her death that property and Some other properties Should go to Rangamma and that Some other properties Should go to the present plaintiff and that each Should deal with her property as She pleased. Rangamma alienated Some properties during her life time and just before her death She executed a will Conveying the Suit property for the expenses of Aprameya Swami Temple for the benefit of the

Souls of herself and her deceased husband
Accordingly the Mosque, is in possession
of the Suit land. Rangamma had full
right to alienate the Suit land The
plaint does not disclose any Cause of
action against this defendant. The Suit
is barred by time and the plaintiff
is entitled to no Relief.

4. The written Statement of the 2nd
defendant is as follows:— The Suit
land was given to Aprameyaswami
Temple under a Registered deed by
Rangamma for the benefit of her Soul
and that of her husband. Rangamma
had full rights over the Suit property,
under the Rajinama Decree passed
between the parties in O.S. 1030 of 1887
on the file of the Seringapatam Munsiff
Court. Since 1889 the Suit land has
been in the possession of the Temple
under the management of the Mosque
Department. The 2nd defendant therefore
prays that the Suit may be dismissed
— Costs.

(15)

25 The 3rd defendant was added in place of his deceased grand-father the 1st defendant as his Representative He filed no written Statement

6. The plaint was filed on 28 2-1907 and written Statements of defendants 1 and 2 filed on 25-6-1907 and 17-7-1907 respectively.

7. The Suit Came on for Settlement of issues on 17-7-1907.

8. The following issues were Settled:--

1. Whether Rangamma had a Right to bequeath the property to the Temple?
2. Whether the will relied on by the defendants is genuine, and whether it is binding on plaintiff?
3. Whether plaintiff is estopped from Setting forth her claim as reversioner, owing to the Rajinama decree referred to by the defendants?
4. Whether the Suit is barred by time as alleged by 1st defendant?
5. To what relief, if any, is plaintiff entitled?

19)

9. The Suit came on for final hearing on 25-9-1907 and by adjournments on — 1-6-1909, 20-7-1909, 21-7-1909 and 16-12-1909

10. The plaintiff examined the following witnesses: —

1. Jeevanna Rao

and 2. Tiruvenkatachar.

11. The following Exhibits were filed by plaintiff: —

A. Entry in "plague Register".

B. Register of Births and deaths in december 1898 of Malur village. Channapatna Taluk.

B(1) Register of Births and deaths in January 1899 of Malur village. Channapatna Taluk.

C. Order dated 10-9-1901 of the Amildar Channapatna Taluk.

D. Certificate granted to Alamelamma (present plaintiff), in Mis: Nos 137 and 157 of — 1899-1900 on the file of the Chief Court of Mysore.

E. Copy of the written pleas filed the Counter-petitions in Mis: No. 137 of

00 on the file of the Chief Court

H. Copy of deposition of Singlachar before the Chief Court in Mis: Nos 137 and 157 of 1899-1900 on the file of the Chief Court of Mysore

12. The 2nd defendant examined the following witnesses:—

1. Shamannah

2. Srinivasaraghavachar

3. Krishna Iyngar.

and 4. Annasamiengar.

13. The following Exhibits were filed by 2nd defendant:—

I. Registered "will" dated 12-1-1899 executed by Rangamma.

I(a) and ~~II(b)~~ I(b) Signatures of Singlachar in Exhibit I.

II. Copy of Rajinama filed by parties in OS. 1030 of 1887 on the file of Seringapatam Munsiff's Court.

III. Copy of plaint in OS 1030 of 1887 on the file of Seringapatam Munsiff's Court

IV. Extract from the register of Births and Deaths in January 1899 of Malur village Channapatna Taluk

21

14. The 3rd defendant did not examine any witness but filed the following Exhibit:-

V Copy of Registered Sale deed dated 22-2-1885 executed by Rangamma in favor of Tiruvenkatachar.-

15. The first question is whether the will Exhibit I is genuine. It is written by one Srinivasaraghavachar and attested by 5 persons. The writer and one of the attestors viz Aprameya Iyngar are said to be dead. All the remaining attestors have been examined as 2nd defendants' witnesses Nos 1 to 4. Of these though the 2nd witness is a relation of the 1st defendant, the other witnesses are all quite disinterested parties. The 1st witness Shamanna is the Shanbhog of the village. The 4th witness Annasamiengar was a neighbour as he had put up his Shed close to the Shed of deceased Rangamma the executant of Exhibit I. Considering that plague was Raging at the time that Rangamma's brothers too had

recently succumbed to plague, it is -- impossible to expect any more persons to have come and attested Exhibit I As it is there is ample evidence to hold that Exhibit I is genuine and that it was executed by deceased Ranganna. Inspite of the lengthy Cross Examination to which the witness were subjected by the learned Advocate for the plaintiff, no discrepancies, worth the name, have been elicited and I see no reason to disbelieve their evidence.

16. We shall now turn to the question whether deceased Ranganna had any Right to alienate the garden in suit to the prejudice of her step daughter the plaintiff. In O.S. 1030 of 1887 on the file of the Munsiff of Seringapatam deceased Ranganna had filed a suit against her mother-in-law and the present plaintiff who was then a minor. Exhibit II is a copy of the Rajinama filed in that suit by the parties. Therein certain properties

were reserved by Rangamma and certain others given to the present plaintiff. The question now is whether Rangamma had absolute right over the properties reserved by her of which the suit garden is one. It will be clear from the recitals in the Rajinama that in consideration of certain properties being given absolutely to the plaintiff, the suit land and some other lands were reserved absolutely by deceased Rangamma. The plaintiff is given absolute right to dispose of, as she pleases, the properties given to her. This fact combined with the circumstance that the plaintiff was only entitled by law for maintenance during the life time of Rangamma, clearly goes to show that it was intended that each party should have full rights to alienate the properties that fell to her share. It may also be observed that deceased Rangamma has not made a gift of lands to any one else to ——

defraud the plaintiff. It is recited in the will that out of the produce of the Suit garden 6 Rupees should be spent towards the worship of God Aprameya on the anniversary of the death of Rangamma and that the balance if any should be spent for other expenses of the temple. Thus Rangamma has dedicated the garden to the Temple of Aprameyaswami more for the benefit of her own Soul than for anything else. Even if Rangamma can be said to have had only a limited interest, I should hold that the alienation being for the benefit of Rangamma's Soul is for a necessary and lawful purpose and is therefore binding on the plaintiff.

17. The 1st defendant has not shewn how the plaintiff's Suit is barred by time.

18. My findings therefore are as follow—

1st. That Rangamma had a right to bequeath the property to the temple.

2nd. That the will relied on by the defendant is genuine and binding—

25

on the plaintiff.

3 Rd. That the plaintiff is estopped from Setting forth her claim owing to the — Rajinama decree referred to by the defendants.

4 th That the Suit is not barred by time.

5 th That plaintiff is entitled to no Relief.

19. I may ~~am to~~ add that the decisions Relied on by the learned Advocate for the plaintiff are not applicable to the present Case —. Eg 4th 9. L. R. 34 Calcutta page 83. Surendra Nath Ghose ~~vs~~ Hemangini Dasi was a Suit to Set aside a Compromise decree on the ground of fraud. The present Suit is not for Such a Relief. In fact the Rajinama decree of the Seringapatam Munsiff's Court is not impeached by the plaintiff at all. The question at issue is the Construction to be placed on the terms of the Rajinama. I. L. R. 30 Allahabad page 77. is also not to the point. (Mahadei ~~vs~~ Baldeo). — What was decided in that Suit was that a Compromise made by a person a Hindu widow's or Hindu daughter

8 estate is not binding on the reversioners even though it has been followed by a decree of the Court and that the reversioners can only be bound by a decree made after full contest in a bonafide litigation. In the present case it is not a reversioner that questions the compromise decree. The reversioner was herself a party to the Rayjwana decree and she is bound by it unless she can shew that any fraud was practised by her guardian who effected the compromise on her behalf.

20. For the above reasons I dismiss the plaintiff's suit with costs. Separate sets of costs will be allowed; one ~~suit~~ set to the 2nd defendant and the other to the 3rd defendant who represents the deceased 1st defendant.

(Signed) B. Ranga Iyengar
Addl Munsiff
14.2.40

pronounced in open court

(Initialled) B R
Addl Munsiff
14-2-40.

"True copy"
Addl Munsiff

Date of application. — 15 2 10

Date when stamp & fee called for 3-3-10

Do — do — deposited. 3-3 10

Date when Addl Stamp & fee called for } Nil

Do — do — deposited }

Date when Copy was Ready Seventh March 1910

Date when Copy was delivered. 8-3-1910

No of words: 2913

Copying fee 2-8-0

Comparing fee 0-10-0

Stamps 0-2-0

Total. 3-4-0

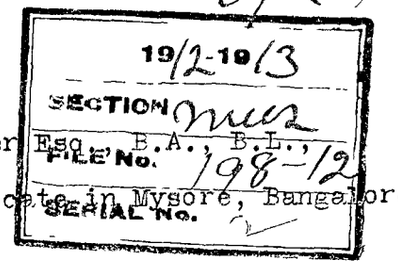
H. Blowdell

No. 102
Cash a/c

Office of the Government Advocate in Mysore.

Bangalore dated, 12th October 1912.

DIARY No. 676(a)



VII
13/10

From,

C. S. Doraswamy Iyer Esq., B.A., B.L.,
Government Advocate in Mysore, Bangalore.

To,

The Secretary to the Government of His Highness
the Maharaja of Mysore General & Revenue Depts:

Sir,

In continuation of this office No.87 dated 23rd September 1912 forwarding copies of judgment and decree in R.A.249 of 1909-10 on the file of the Chief Court, (Alemelamma VS Secretary to Government, Muzrai Department and another), I have the honour to submit herewith a bill for Rs.12/- being advocate's fees for conducting the said appeal before the Chief Court and request that the sanction of --- Government may kindly be obtained for the encashment of the bill.

2. The circumstances under which Mr.S. Ranganna, Public Prosecutor, Bangalore Division happened to appear in the case on behalf of Government, has been detailed in para 2 of the letter under advertance.

I have the honour to be,
Sir,
Your most obedient servant,

C. Doraswamy Iyer
Government Advocate.

2

G.R.S. 28]

File No. 198-12
Serial No. 3

*Diary No. of letter replied to*_____

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 191 .

READ—

Letter no. 1334 Dy Muz. 7. 68-10-4 19th Nov. 1910 requesting the Govt. Advocate in Mysore to appear on behalf of ~~the respts~~ Govt. and other

Date of issue 6-12-1912

Signed by Tr. Ramaswamaiya

~~ORDER THEREON.—No.~~

and conduct the appeal filed by Alamelamma in the Chief Court of Mysore regarding S. no. 90 of Malluru gifted to the Sri Apprameya Swamy,

over

SUBJECT.

Temple at Mallur-

~~Correspondence ending~~ with Letters Nos 102 Dy (84 and) 23rd Septr and 12th Octr 1912 respectively from the Govt Advocate in Mysore stating that the appeal was dismissed with costs and forwarding copies of Judgment and decree together with a bill for Rs 12 being advocate's fees payable to Mr S. Ranganada, Public Prosecutor, in the circumstances explained, for Conducting the appeal.

Order thereon — No 743-5 Enq Dy 6.12.1912.

Recorded.

The bill for Rs 12 is sanctioned and forwarded to the Cmptr for audit, the cost being debited to the funds of Sri Appramya Swamy Temple.

3.) A DR

22.11.12

By Hr Secretary.

13.11.12

GPB —20,000—2-10-11

Advocate in Mysore, with the bill.

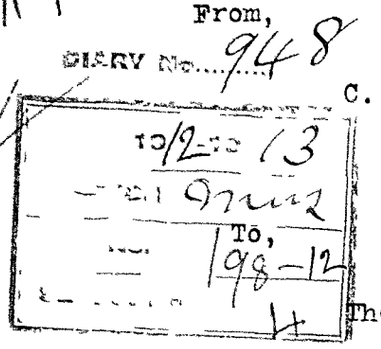
The Govt. advocate is requested to take the necessary steps for the recovery ~~of the costs~~ from the appellant (plaintiff), of the costs awarded to Govt in the case.

27/11/12

Office of the Government Advocate in Mysore,

Bangalore dated, 6th December 1912.

From,



C. S. Doraswamy Iyer Esq., B.A., B.L.,
Government Advocate in Mysore, Bangalore.

To,

The Secretary to the Government of His Highness the Maharaja of Mysore General & Revenue Departments.

Sir,

Adverting to para 3 of Government Order No.743-5/ Muz.F.198-12-3 dated 6th December 1912, requesting me to take necessary steps for recovery from the appellant (Plaintiff) of the costs awarded to Government (Defendant) in the case, I have the honour to suggest that the Muzrai Superintendant in Mysore, or the Deputy Commissioner, Bangalore District, - may be requested to instruct the Public Prosecutor, Bangalore Division, to institute execution proceedings in the case.

I have the honour to be,

Sir,

Your most obedient servant,

Government Advocate.

G.R.S. 26]

File No. 198
Serial No. 5

Diary No. of letter replied to 9487

No. 756

General and Revenue Secretariat
( )
, *the* 19 .

To

The Dy. Commr.,
Bangalore Distt.

Date of issue 16.12.1912

Signed by Jno. B. Ramaswamaya

Sir,

Adverting to Govt. Pro. No. 7433-5 Dy 6th Dec 1912 Mug. J. 198-12-3 recording the Govt. Advocate's Communications stating among other things, that the appeal filed by Alamelamma in the ch. court of Mysore against Govt. and another, regarding S. no. 90 of Mallur sifted to Sri Appraneyaswamy Temple

over.

SUBJECT.